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Message Text

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46
ACTION IO-13

INFO OCT-01 ADP-00 OIC-04 IOE-00 SSO-00 NSCE-00 USIE-00

INRE-00 CIAE-00 DODE-00 PM-09 H-02 INR-10 L-03

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SS-15 ACDA-19

AF-10 ARA-11 EA-11 EUR-25 NEA-10 GAC-01 TRSE-00

MBFR-03 SAJ-01 RSR-01 /164 W
---------- 102599
O 181643 Z MAY 73 ZFF-4
FM USMISSION USUN NY
TO SECSTATE WASHDC IMMEDIATE 8044

C O N F I D E N T I A L USUN 1880

FOR ASSISTANT SECRETARY DEPALMA

E. O. 11652: GDS
TAGS: PFOR, UN
SUBJ: DEFINITION OF AGGRESSION

GENERAL

THE SPECIAL COMMITTEE WILL NOT AGREE ON A DEFINITION AT THE CURRENT SESSION NO MATTER HOW FORTHCOMING THE USDEL MAY BE. HOWEVER, USEFUL WORK CONSISTENT WITH OUR INTERESTS AND MAINTAINING REASONABLE ALLIED SOLIDARITY COULD BE ACCOMPLISHED ON (I) PRIORITY AND INTENT, AND (II) INDIRECT AGGRESSION. RECORDED PROGRESS ON (II) WOULD BE ESPECIALLY USEFUL EVEN IF THE TEXT AGREED TO WERE NOT AS ALL- ENCOMPASSING AS THE FRIENDLY RELATIONS DECLARATION.

PRIORITY AND INTENT

USDEL' S RECOMMENDED TEXT (THE " REVISED GUYANA" PROPOSAL PER PARA. 1, GENEVA 2342) IN UNACCEPTABLE. IT WOULD CONFIRM THAT A PRIMA FACIE ACT OF AGGRESSION IS AN ACT OF AGGRESSION
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UNLESS THE SC WERE TO " CONCLUDE" OTHERWISE. AN IMPOSSIBLE SITUATION.

THE DEL COULD BE INSTRUCTED TO PROPOSE A " POSITIVE"

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VARIATION OF THE TERMINAL PART OF THE REVISED GUYANA TEXT.
THE ENTIRE TEXT WOULD READ: " THE FIRST USE OF ARMED FORCE
IN CONTRAVENTION OF THE UNITED NATIONS CHARTER SHALL
CONSTITUTE PRIMA FACIE EVIDENCE OF AN ACT OF AGGRESSION
PROVIDED, HOWEVER, THAT THE SECURITY COUNCIL SHALL, IN
CONFORMITY WITH ITS POWERS AND OBLIGATIONS UNDER THE CHARTER,
CONSIDER WHETHER A DETERMINATION TO THAT EFFECT WOULD BE
JUSTIFIED IN THE LIGHT OF OTHER RELEVANT CIRCUMSTANCES,
INCLUDING, AS EVIDENCE, THE PURPOSES OF THE STATES INVOLVED."

INDIRECT AGGRESSION

I AGREE WITH MANY OF THE DEL' S CAVEATS AGAINST LITERAL
IMPORTATION INTO THE DEFINITION OF THE FRIENDLY RELATIONS
PARAGRAPHS (SEE PARA. 6 , GENEVA 2286). AND I THINK
WE COULD MOVE FORWARD TO THE FRENCH IDEA OF BUILDING
THE APPROPRIATE PARAGRAPH IN THE LIST OF ACTS ON THE
BASIS OF THE ILLEGALITY OF " SENDING" FORCES INTO ANOTHER
STATE' S TERRITORY (PARA. 3, GENEVA 2319). ON ONE POINT,
HOWEVER, THE DEL IS TOO SOFT; I BELIEVE WE MUST AT LEAST AT
THIS STAGE INSIST ON INCLUDING ACQUIESENCCE, ALTHOUGH
AT THE VERY END AND IN ORDER TO SECURE AN OTHERWISE SATIS-
FACTORY DEFINITION, I WOULD GIVE IT UP ON THE GROUND THAT
NOT EVERY SOVEREIGN HAS SUCH SUPERB CONTROL OVER HIS
TERRITORY (E. G. BURMA).

THE DEL COULD BE AUTHORIZED TO EXPLORE A REVISION ALONG
THE FOLLOWING LINES BUT SHOULD NOT TABLE IT UNLESS IT WILL
BE AGREED AT THE CURRENT SESSION: " SENDING, ASSISTING OR
ENCOURAGING THE SENDING OF IRREGULAR FORCES OR ARMED BANDS
OR OTHER GROUPS, VOLUNTEERS OR MERCENARIES INTO THE TERRITORY
OF ANOTHER STATE OR KNOWINGLY ACQUIESCING IN ORGANIZED
ACTIVITIES WITHIN ITS OWN TERRITORY RESULTING
IN THE COMMISSION OF SUCH AN ACT."

INTRODUCTION TO THE LIST OF SPECIFIC ACTS

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THE DEL COULD BE AUTHORIZED TO ACCEPT THE " AUSTRALIAN"
INTRODUCTION, WHICH READS: " WITHOUT PREJUDICE TO THE
DISCRETION OF THE SECURITY COUNCIL TO DETERMINE OTHER ACTS TO
BE ACTS OF AGGRESSION, ANY OF THE FOLLOWING ACTS, IF IN
VIOLATION OF THE CHARTER OF THE UNITED NATIONS, MAY CON-
STITUTE AN ACT OF AGGRESSION REGARDLESS OF A DECLARATION
OF WAR." (SEE PARA. 5, GENEVA 2308.)

SELF- DETERMINATION

WE COULD USEFULLY DISPLAY A WILLINGNESS TO WORK WITH
AUSTRALIA, CANADA AND SUCH REASONABLE AF' S AS GHANA BY MAKING
A TWO- PART PROPOSAL INSPIRED BY THE GHANA PROPOSAL RECORDED

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IN PARA. 2 OF GENEVA

<< END OF DOCUMENT >>

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Disposition Approved on Date:
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From: USUN NY
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